

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JACOB RAMIE PRATT,

Case No. 3:15-cv-00279-MMD-VPC

Petitioner,

ORDER

v.

RENEE BAKER, et al.,

Respondents.

Petitioner has submitted a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court has reviewed the petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The Court will serve the petition upon respondents for a response.

Petitioner admits that this action is untimely pursuant to 28 U.S.C. § 2244(d). He also admits that he cannot show good cause for the delay, which the Court interprets as an admission that he cannot establish grounds for equitable tolling. Instead, petitioner argues that he is actually innocent of first-degree kidnapping with the use of a deadly weapon and of attempted murder. Actual innocence can excuse operation of the statute of limitations. *McQuiggin v. Perkins*, 133 S. Ct. 1924, 1928 (2013). The court cannot evaluate petitioner's argument with the documents that it possesses currently. Respondents may raise the issue of timeliness in their response.

It is therefore ordered that the Clerk of the Court shall file the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

1           It is further ordered that the Clerk shall add Adam Paul Laxalt, Attorney General  
2     for the State of Nevada, as counsel for respondents.

3           It is further ordered that the Clerk shall electronically serve upon respondents a  
4     copy of the petition and this order. In addition, the Clerk shall return to petitioner a copy  
5     of the petition.

6           It is further ordered that respondents shall have forty-five (45) days from the date  
7     on which the petition was served to answer or otherwise respond to the petition.  
8     Respondents shall raise all potential affirmative defenses in the initial responsive  
9     pleading, including lack of exhaustion and procedural default. Successive motions to  
10    dismiss will not be entertained. If respondents file and serve an answer, then they shall  
11    comply with Rule 5 of the Rules Governing Section 2254 Cases in the United States  
12    District Courts, and then petitioner shall have forty-five (45) days from the date on which  
13    the answer is served to file a reply.

14          It is further ordered that any exhibits filed by the parties shall be filed with a  
15    separate index of exhibits identifying the exhibits by number or letter. The CM/ECF  
16    attachments that are filed further shall be identified by the number or numbers (or letter  
17    or letters) of the exhibits in the attachment. The hard copy of any additional state court  
18    record exhibits shall be forwarded — for this case — to the staff attorneys in Las Vegas.

19          It is further ordered that henceforth, petitioner shall serve upon respondents or, if  
20    appearance has been entered by counsel, upon the attorney(s), a copy of every  
21    pleading, motion or other document submitted for consideration by the Court. Petitioner  
22    shall include with the original paper submitted for filing a certificate stating the date that  
23    a true and correct copy of the document was mailed to the respondents or counsel for  
24    the respondents. The Court may disregard any paper received by a district judge or

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1 magistrate judge that has not been filed with the Clerk, and any paper received by a  
2 district judge, magistrate judge, or the Clerk that fails to include a certificate of service.

3 DATED THIS 2<sup>nd</sup> day of July 2015.

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7 UNITED STATES DISTRICT JUDGE  
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